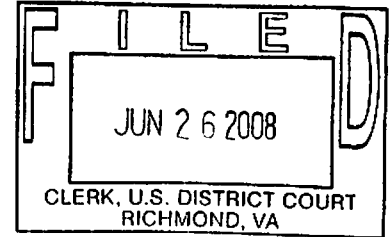


**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Richmond Division**



**JOHNATHAN LEE X SMITH,**

**Petitioner,**

V.

Civil Action No. 3:08CV40

**ROBERT F. MCDONNELL,**

**Respondent.**

## ORDER

In accordance with the accompanying Memorandum Opinion, it is hereby ORDERED that: Petitioner's federal habeas petition will be DISMISSED WITHOUT PREJUDICE for failure to exhaust.

Petitioner may appeal the decision of the Court. Failure to file written notice of appeal within thirty (30) days of the date of entry hereof may result in the loss of the right to appeal.

The Clerk of the Court is DIRECTED to send a copy of the accompanying Memorandum Opinion and this Order to Petitioner and counsel for the United States.

It is so ORDERED.

/s/  
James R. Spencer  
Chief United States District Judge

Date: 6-25-08  
Richmond, Virginia